



REQUEST FOR PROPOSALS

To provide professional services relating to pension
actuarial services

Issued by the State of Mississippi, Office of the Governor

**Proposals due by: 2 p.m. CDST on
September 6, 2011**

I. INTRODUCTION AND GENERAL INFORMATION

The State of Mississippi (the “State”), through the Office of the Governor, is requesting proposals for professional services relating to pension actuarial services. By issuing Executive Order No. 1061, Governor Haley Barbour formed a Public Employees’ Retirement System Study Commission (“the Commission”) to evaluate the state’s retirement system (see **Appendix A**) and provide recommendations on ways to strengthen the system by November 15, 2011. The Commission will need expert assistance in order to fulfill its charge as set forth by the Governor’s Executive Order.

This Request for Proposals (“RFP”) specifically requests assistance from an actuarial firm to analyze various aspects of the employee retirement systems of the State including pension system assets, projected actuarial liabilities, and various funding options and alternatives. A review of the assumptions that are made by the retirement systems and their actuaries may be conducted to confirm the certifications submitted by the retirement systems are reasonable on behalf of the employees, annuitants and taxpayers of the State of Mississippi.

Additionally, and as described in more detail below, the Office of the Governor provides staff support to the PERS Study Commission and in this capacity requires additional technical and analytical assistance from actuarial experts.

The services of a firm or firms selected under this RFP (an “Actuarial Advisor”) are expected to be provided through a contract extending to November 30, 2011, subject to early termination as provided in such contract. This contract can be extended at the option of the Governor’s Office to no later than December 31, 2011. The Governor’s Office reserves the right to issue additional RFPs and enter into additional contracts for these or any other types of services during this time period. Additionally, the Governor’s Office reserves the right to assign certain of its obligations (not related to the Scope of Services) under the contract entered into pursuant to this RFP to one or more state agencies or entities, as may be appropriate.

Proposals must be received no later than 2:00 p.m. CDST on September 6, 2011, to be considered. Four hard copies of your proposal (limited to 10 pages, including any appendices you create) should be hand-delivered to the Governor’s Office which is located in the Walter Sillers Building (19th Floor, 550 High Street, Jackson, MS 39205). Please provide one copy of your proposal unbound among the four hard copies. Proposers may also submit electronic copies of their proposals to rstaples@governor.state.ms.us. The Governor’s Office will retain, and is under no obligation to return, all materials submitted in response to this RFP. Failure to provide all requested information or otherwise comply with these provisions may disqualify your proposal.

Parties that intend to respond are asked to confirm receipt of the entire RFP document via email to rstaples@governor.state.ms.us, attention: "Actuarial RFP Responses" no later than August 23, 2011. The Governor’s Office, in consultation with the PERS Study Commission, plans to select finalist(s) as soon as possible after the RFP submission deadline.

Questions related to any aspect of or type of service contemplated within this RFP should be submitted by e-mail to rstaples@governor.state.ms.us no later than August 25, 2011. Please indicate “Actuarial RFP Question – Firm Name” in the subject line.

In the discretion of the Governor’s Office, if appropriate and advisable, there may be a proposers’ conference call to address any questions about this RFP prior to the RFP submission deadline.

The Governor's Office may also post this RFP on its website (www.governorbarbour.com) or send out supplemental information before the response date to firms indicating intent to respond. Proposers must formally acknowledge any addenda issued by the Governor's Office in their submitted proposal. The Governor's Office is not liable for any costs incurred by respondents in replying to this RFP and reserves the right to reject any and all proposals with or without cause.

II. SCOPE OF SERVICES

Governor's PERS Study Commission

Governor Haley Barbour formed a Public Employees' Retirement System Study Commission to evaluate the state's retirement system (**see Appendix A**). In accordance with Executive Order No. 1061, the Commission is charged with reviewing the financial condition of the Mississippi Public Employees' Retirement System by:

- Analyzing the financial structure and funding mechanism of PERS, including an analysis of the ratio of taxpayer to employee contributions;
- Analyzing the management structure of the agency, including the make up of the PERS Board of Trustees;
- Analyzing the investment structure of PERS, including any comparison to similarly-sized funds, as well as larger funds, with respect to performance and fees charged;
- Analyzing the legality of modifying the benefit structure for current and future state employees;
- Analyzing any and all actuarial assumptions for the PERS plan;
- Analyzing what experts have been engaged by PERS, what their responsibilities are, how much they are paid, and what benefits and services PERS receives from these experts; and
- Analyzing any other issue related to PERS that will help promote solvency and ensure the interests of taxpayers, state employees, and retired state employees are protected.

The Commission is required to submit its recommendations to the Governor on ways to strengthen the retirement system by November 15, 2011.

The Actuarial Advisor will assist the Commission and Governor's Office with the technical and analytical aspects of this work, which may include modeling services and projections for potential plan adjustments; analyses of actuarial methods and assumptions made in existing valuations; or experience analyses related to the value of pension assets and actuarial liabilities, including economic and demographic factors such as rates of return, employer contribution rates, expected compensation, early retirement, workforce size, mortality and term of service. The Actuarial Advisor will assist the Commission and Governor's Office with tasks that may include evaluating the comparative cost of the administration of the PERS program; studying, analyzing, and quantifying individual elements of the benefit structure that materially affect actuarial costs individually or in the aggregate; comparing the standards of the PERS system to other viable retirement systems, including public and private systems; identifying a plan for the retirement system to eliminate its unfunded accrued liability and to become fully funded; and other tasks as determined by the work of the Commission and Governor's Office. Further anticipated services may include attendance at meetings of the Commission, preparation of information, research, analysis, cost calculations, recommendations and presentations as requested by the Commission and Governor's Office.

Additional information about Mississippi PERS, including the Fiscal Year 2010 Report on the Annual Valuation of the Public Employee's Retirement System of Mississippi, can be found at <http://www.pers.state.ms.us>. Finally, the Actuarial Advisor should expect to provide additional advisory services to the Commission and the Governor's Office on actuarial matters of the foregoing nature as may be requested from time to time, including assistance with the formulation, development and presentation of any relevant legislative proposals. No work shall be commenced without the prior approval of the Governor's Office and the Commission. All work is to be performed to meet anticipated deadlines and

provide deliverables in advance of various budgeting process milestones, often under significant time constraints.

III. RESPONSE TO REQUEST FOR PROPOSALS

All respondents must respond to questions A through E. **Respondents must present proposals in the same sequence and with the same letter scheme as in this Section III, acknowledging any addenda, where applicable**

***Note:** Please make specific reference in the response, as well as in any accompanying cover letter or document, to any legitimately and appropriately confidential or proprietary material contained in the response.*

A. Describe your firm and its capabilities, highlighting prior involvement with the State, the State's retirement systems and/or other pension systems of comparable size and complexity. Identify similar projects that your firm has overseen, providing reference names and contact information of clients for which your firm undertook similar projects. Expound upon your subject matter expertise as it would apply to the matters described in the Scope of Services portion of this RFP. Clearly indicate any current or past contracts your firm has held to provide advisory services of a similar nature to the State in any capacity.

B. Provide a list of your firm's relevant clients, particularly any government pension funds. Identify any actuarial valuations subject to audit or review in the last three years. If applicable, provide findings of the most recent audit.

C. Identify the person or persons in your firm who would be the project leader(s) and team members for work under this RFP, and describe in detail each person's background, including educational and professional background, professional actuarial certifications, and their knowledge of and experience in working with government pension funds. Provide a staffing plan for work under this RFP, and indicate the roles and responsibilities of each assigned individual.

D. Detail any criminal investigation, indictment, prosecution or other proceeding that has ever been brought against your firm (provide attachment if necessary). Also describe any civil litigation pending or concluded within the last three years against your firm (provide attachments if necessary). Also describe the nature of any conflicts of interest that you believe may exist or arise.

E. **Provide one copy only of fee-related information in a separate sealed envelope.** The pricing for your bid should be formulated in two alternatives: 1) with a schedule of hourly rates for professionals whom you believe would be assigned to the matters covered by this RFP, and 2) on the basis of a single blended hourly rate for all professionals (regardless of level) to be assigned to the matters covered by this RFP. All out-of-pocket expenses approved in advance under the contract issued pursuant to this RFP will be reimbursed at actual cost. **Do not include any reference to fees in the body of your RFP response. Your firm name should be clearly labeled on the outside of your bid envelope.** Failure to comply with these provisions may result in disqualification of your firm.

The winning proposer or proposers will be required to sign a contract which is agreeable to the state, including all standard terms and conditions for state contracts, and is in compliance with all state and federal laws, including requirements associated with the American Recovery and Reinvestment Act ("ARRA"). The Governor's Office intends to use up to \$250,000 in ARRA funding to fund the services provided by the Actuarial Advisor or Actuarial Advisors. A sample

contract which is in substantial form is attached in Appendix B. ARRA award terms are included in Appendix C.

IV. EVALUATION AND SELECTION PROCESS

RFP Responses will be evaluated based on the firm's responses to Section III, questions A-E above, and the following criteria:

- Subject matter expertise, prior State of Mississippi experience; experience with the State's retirement systems and/or other pension systems of comparable size and complexity (30%);
 - Strength of work plan and description of approach (20%);
 - Provision of reports or documentation from similar prior work that details methods and demonstrates ability to meet the services sought by this RFP (20%);
 - Demonstration of ability to provide deliverables in a timely manner (10%);
 - Assignment of appropriate personnel with experience in areas described above for duration of engagement (10%); and
 - The firm's ability to provide low cost quality service to the Governor's Office and the Commission.
- Fees and services may be subject to negotiation. The Governor's Office reserves the right to select multiple Advisors to provide Services (10%).

Acceptance of Proposals

The Governor's Office reserves the right, in its sole discretion, to waive minor informalities in proposals. A minor informality is a variation in the proposal that does not affect the cost of the proposal or gives one Proposer an advantage or benefit not enjoyed by other Proposers or that adversely impacts the interests of the State. Waivers, when granted, shall in no way modify the RFP requirements or excuse the Proposer from full compliance with the RFP specifications and other contract requirements if the Proposer is awarded a contract.

Rejection of Proposals

The Governor's Office may reject proposals, in whole or in part, when it is determined to be in the best interest of the State. Reasons for rejecting a proposal include, but are not limited to:

- The proposal contains unauthorized amendments to the requirements of the RFP;
- The proposal is conditional;
- The proposal is incomplete or contains irregularities that make the proposal indefinite or ambiguous;
- An authorized representative of the party does not sign the proposal;
- The proposal contains false or misleading statements or references;
- The proposal ultimately fails to meet the announced requirements of the Governor's Office in some material aspect;
- The proposal price is clearly unreasonable;
- The proposal is not responsive, i.e., does not conform in all material respects to the RFP;
- The supply or service item offered in the proposal is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the RFP;
- The Proposer does not comply with the Procedures for Delivery of Proposal; and/or
- The Proposer currently owes the State money.

Conditions of Solicitation

A. All submitted proposals become the property of the Governor's Office and will not be returned to the Proposer.

B. The release of this RFP does not constitute an acceptance of any offer, nor does such release in any way obligate the Governor's Office to execute a contract with any other party. The Governor's Office reserves the rights to accept, reject, or negotiate any or all offers on the basis of the evaluation criteria contained within this document. The final decision to execute a contract with any party rests solely with the Governor's Office.

C. The Proposer shall assure compliance with the following conditions of solicitation:

- Any proposal submitted in response to the RFP shall be in writing;
- The Governor's Office will not be liable for any costs incurred by any party which are associated with the proposal process, including, but not limited to, preparation of proposals, required on-site interviews, if necessary, and negotiations of a contract.

D. The award of a contract for any proposal is contingent upon the following;

- Favorable evaluation of the proposals;
- Favorable on-site interviews and presentations with the potential winning Proposer(s) where requested;
- Favorable evaluation of "best and final offers" should the Governor's Office request the submission of a "best and final offer" from the potential leading Proposers. The Governor's Office reserves the right to request a "best and final offer", however, the Governor's Office is under no obligation to request or evaluate "best and final offers" and Proposers are encouraged to present their best offering in their initial response to this RFP; and
- Approval of the proposal by the Governor's Office and successful negotiation of a contract.

E. The Governor's Office reserves the right to accept any proposal as submitted for contract award without substantive negotiation of offered terms, services, or prices.

F. All parties are advised to propose their most favorable terms initially. The Governor's Office reserves the right to conduct discussions with Proposers who substantively meet the qualifications for the purpose of clarification to ensure full understanding of and responsiveness to the requirements and the budget summary submitted. However, as stated above, proposals may be accepted without any such discussions or clarifications.

G. Contracted parties will be required to assume full responsibility for all specified services and may subcontract only as specified in the RFP.

H. Proposers may designate those portions of the proposal that contain trade secrets or other proprietary data that remain confidential in accordance with §25-61-9 and §79-23-1 of the Mississippi Code of 1972, Annotated. Unless so designated, all information shall become public information upon contract award. Any information considered to contain trade secrets or other proprietary data shall be on colored paper that is easily identifiable.

I. The Governor's Office reserves the right to cancel this solicitation when it is determined to be in the best interest of the State.

J. Any proposal received after the time and date set for receipt of proposals is late. Any withdrawal or modification of a proposal received after the time and date set for receipt of proposals at the place designated for receipt is late. No late proposal, late modification, or late withdrawal will be considered, unless receipt would have been timely but for the action or inaction of Governor's Office personnel directly involved in the procurement activity.

K. Proposers shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the offer, by identifying the amendment number and date in the space provided for this purpose on the proposal form, or by letter. The acknowledgement must be received by the Governor's Office by the time and at the place specified for receipt of proposal. The offer may be rejected if the acknowledgement of any amendment is not received.

L. The Proposer certifies that the fee(s) proposed in response to the solicitation has/have been arrived at independently and without any consultation, communication, or agreement with any other Proposer or competitor relating to the intention to submit a proposal, or the methods or factors used to calculate the fee(s).

APPENDIX A

STATE OF MISSISSIPPI

Office of the Governor



Executive Order No. 1061

PUBLIC EMPLOYEES' RETIREMENT SYSTEM STUDY COMMISSION

WHEREAS, a comprehensive and thorough study of the Public Employees' Retirement System is necessary to ensure the solvency of the fund, to inform the public and current and future state employees, and to protect the interests of taxpayers, state employees, and retired state employees; and

WHEREAS, Mississippi should review the financial, investment, and management structure of PERS to ensure its long-term sustainability; and

WHEREAS, Mississippi is not unique in facing pension funding issues; in fact, many states across the nation have begun to look at ways to reform their public pension funds; and

WHEREAS, before further reforms to the state's pension fund are enacted, a thorough study should be conducted by knowledgeable and respected individuals to review all options with an eye toward informing and protecting both the beneficiaries (employees and retirees) and those who fund the system (taxpayers);

NOW, THEREFORE, I, Haley Barbour, Governor of the State of Mississippi, under and by virtue of the Constitution and laws of this state, do hereby promulgate the following executive order, effective immediately.

There is hereby created and established a Public Employees' Retirement System Study Commission. The commission shall be independent of the Public Employees' Retirement System, a state agency, and shall be charged with making recommendations on improving the financial, management, and investment structure of PERS. The responsibilities of the commission include, but are not limited to:

- Analyzing the financial structure and funding mechanism of PERS, including an analysis of the ratio of taxpayer to employee contributions;
- Analyzing the management structure of the agency, including the make up of the PERS Board of Trustees;
- Analyzing the investment structure of PERS, including any comparison to similarly-sized funds, as well as larger funds, with respect to performance and fees charged;

- Analyzing the legality of modifying the benefit structure for current and future state employees;
- Analyzing any and all actuarial assumptions for the PERS plan;
- Analyzing what experts have been engaged by PERS, what their responsibilities are, how much they are paid, and what benefits and services PERS receives from these experts; and
- Analyzing any other issue related to PERS that will help promote solvency and ensure the interests of taxpayers, state employees, and retired state employees are protected.

The Public Employees' Retirement System Study Commission shall be funded by any funds made available to the commission from any source, including local, state, and federal funds as well as private contributions.

The Commission shall consist of twelve (12) members, who shall be appointed by the Governor and shall serve at his will and pleasure. Legislative members shall serve in an ex-officio, nonvoting capacity. The Governor shall designate one member of the Commission to serve as its Chairman, who shall hold that post at the will and pleasure of the Governor. The Chairman has the exclusive authority to convene the Commission.

The Public Employees' Retirement System Study Commission shall meet at such time and in such location as determined by the chair of the commission. The commission shall provide a comprehensive analysis along with recommendations for improving the state's retirement system to the Legislature and Governor no later than November 15, 2011.

APPENDIX B

SAMPLE PERSONAL SERVICE CONTRACT

This Personal Service Contract is made by and between the Office of the Governor, a state agency, (the "GOV") whose address is 550 High Street, Walter Sillers Building – Suite _____, Jackson, Mississippi 39201 and _____, (the "Contractor") whose _____ address _____ is _____ on the _____ day of _____, 2011, under the following terms and conditions:

1. **Scope of Services**

The Contractor will provide services as specified in the Request for Proposal (hereinafter referred to and attached as Exhibit "A"), and the Proposal by Contractor dated _____ (hereinafter referred to and attached as Exhibit "B"). Professional Pension Actuarial Services to be provided include, but are not limited to: analyzing the financial structure and funding mechanism of the Mississippi Public Employees Retirement System (PERS), including an analysis of the ratio of taxpayer to employee contributions; analyzing the management structure of the agency, including the make-up of the PERS Board of Trustees; analyzing the investment structure of PERS, including any comparison to similarly sized funds, as well as larger funds, with respect to performance and fees charged; analyzing the legality of modifying the benefit structure for current and future state employees; analyzing any and all actuarial assumptions for the PERS plan; analyzing what experts have been engaged by PERS, what their responsibilities are, how much they are paid, and what benefits and services PERS receives from these experts; analyzing any other issues related to PERS that will help promote solvency and ensure the interests of taxpayers, state employees, and retired state employees are protected; and assisting the PERS Study Commission and the Office of the Governor with the technical and analytical aspects of this work, including attendance at meetings of the Commission, preparation of information, research, analyses, cost calculations, recommendations and presentations as requested by the Commission and the Office of the Governor.

2. **Contract Term** Ninety-one (91) Days, with one (1) thirty-one (31) day renewal option. Also, see "30. **Renewal of Contract**" delineated herein below.

3. **Consideration**

Consideration for Professional Pension Actuarial Services - shall conform to the Price contained within the Proposal by Contractor;

Reasonable and Necessary Expenses – shall conform to the Price contained within the Proposal by Contractor and subject to Department of Finance and Administration Office of Purchasing and Travel guidelines and regulations;

Contractor agrees to provide the Scope of Services based upon the hourly rate categories and/or unit prices provided for in the Contractor's Proposal. Total

Consideration under this contract, including the original contract term and any renewals as _____ provided _____ herein, _____ shall _____ not exceed _____
_____.

The contractor shall submit monthly progress reports to the GOV along with monthly billings that will be paid in accordance with the payment terms outlined below.

4. **Payment** The GOV agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, et seq. of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts within forty-five (45) days of receipt of the invoice. Payments by state agencies using the Statewide Automated Accounting System (SAAS) shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. The State may, at its sole discretion, require the Contractor to submit invoices and supporting documentation electronically at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency. No payment, including final payment, shall be construed as acceptance of defective or incomplete work, and the Contractor shall remain responsible and liable for full performance.
5. **Availability of Funds** It is expressly understood and agreed that the obligation of the GOV to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the GOV, the GOV shall have the right upon ten (10) working days written notice to the Contractor, to terminate this Agreement without damage, penalty, cost or expenses to the GOV of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
6. **Record Retention and Access to Records** The Contractor agrees that the GOV or any of its duly authorized representatives at any time during the term of this Agreement shall have unimpeded, prompt access to and the right to audit and examine any pertinent books, documents, papers, and records of the Contractor related to the Contractor's charges and performance under this Agreement. All records related to this Agreement shall be kept by the Contractor for a period of three (3) years after final payment under this Agreement and all pending matters are closed unless the GOV authorizes their earlier disposition. However, if any litigation, claim, negotiation, audit or other action arising out of or related in any way to this contract has been started before the expiration of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved. The Contractor agrees to refund to the GOV any overpayment disclosed by any such audit arising out of or related in any way to this contract. However, if any litigation, claim, negotiation, audit or other action has been started before the expiration of the three (3) year period, the records

shall be retained for one (1) year after all issues arising out of the action are finally resolved.

7. **Applicable Law** The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the state. The Contractor shall comply with applicable federal, state, and local laws and regulations.
8. **Assignment** The Contractor shall not assign, subcontract or otherwise transfer in whole or in part, its right or obligations under this Agreement without prior written consent of the GOV. Any attempted assignment or transfer without said consent shall be void and of no effect.
9. **Compliance with Laws** The Contractor understands that the GOV is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
10. **Employee Status Verification System** The Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, Section 71-11-1, et seq. of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. The Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. The Contractor understands and agrees that any breach of these warranties may subject the Contractor to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to the Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such cancellation/termination, the Contractor would also be liable for any additional costs incurred by the State due to the contract cancellation or loss of license or permit."
11. **Transparency** In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully

executed copy of this agreement shall be posted to the State of Mississippi's accountability website at: <https://www.transparency.ms.gov>

12. **Independent Contractor** The Contractor shall perform all services as an independent Contractor and shall at no time act as an agent for the GOV. No act performed or representation made, whether oral or written, by the Contractor with respect to third parties shall be binding on the GOV. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the GOV; and the GOV shall at no time be legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees.
13. **Modification or Renegotiation** This Agreement may be modified, altered or changed only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal, state and/or the GOV revisions of any applicable laws or regulations make changes in this Agreement necessary.
14. **Representation Regarding Contingent Fees** The Contractor represents that it has not retained a person to solicit or secure a GOV contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid or proposal.
15. **Representation Regarding Gratuities** The Bidder, offeror, or Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.
16. **Termination for Convenience**
 - (1) Termination. The GOV may, when the interests of the GOV so require, terminate this contract in whole or in part for the convenience of the GOV. The GOV shall give written notification of the termination to the Contractor specifying the part of the contract terminated and when the termination becomes effective.
 - (2) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontractors and orders connected with the terminated work. The GOV may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the GOV. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
17. **Termination for Default**
 - (1) Default. If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified within this contract, or any extension thereof otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the GOV may notify the Contractor in writing of the delay or nonperformance and if

not cured in ten days or any longer time specified in writing by the GOV, the GOV may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or failure to properly perform. In the event of termination in whole or in part, the GOV may procure similar supplies or services in a manner and upon terms deemed appropriate by the GOV. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

- (2) Contractor's Duties. Notwithstanding termination of the contract and subject to any directions from the GOV, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the GOV has an interest.
- (3) Compensation. Payment for completed services delivered and accepted by the GOV shall be at the contract price. The GOV may withhold from amounts due the Contractor such sums as the GOV deems to be necessary to protect the GOV against loss because of outstanding lien holders and to reimburse the GOV for the excess costs incurred in procuring similar goods and services.
- (4) Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of Subcontractors, the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers performance) if the Contractor has notified the GOV within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the state and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the Subcontractor were reasonably obtained from other sources in sufficient time to permit the Contractor to meet the contract requirements. Upon request of the Contractor, the GOV shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable clauses, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the GOV under the clause of this contract entitled "Termination for Convenience".
- (5) Erroneous Termination for Default. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause of this contract entitled "Termination for Convenience".

- (6) Additional Rights and Remedies. The rights and remedies provided under this clause are in addition to any other rights and remedies provided by law or under this contract.

18. **Stop Work Order**

- (1) Order to stop work. The GOV, may by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the GOV shall either:
- (a) cancel the stop work order; or
 - (b) terminate the work covered by such order as provided in the "Termination for Default" clause or the "Termination for Convenience" clause of this contract.
- (2) Cancellation or Expiration of the Order. If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
- (a) the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and
 - (b) the Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the GOV decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- (3) Termination of Stopped Work. If a stop work is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- (4) Adjustment of Price. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment" clause of this contract.

19. **Price Adjustment**

- (1) Price Adjustment Methods. Any adjustment in contract price pursuant to a clause in this contract shall be made in one or more of the following ways:
- (a) by agreement on a fixed price adjustment before commencement of the additional performance;
 - (b) by unit prices specified in the contract; or
 - (c) by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract.
- Submission of Cost or Pricing Data. The contractor shall provide cost or pricing data for any price adjustments subject to the provisions of section 3-403 (Cost or Pricing Data) of the Mississippi Personal Service Contract Procurement Regulations.

20. **Oral Statements** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the GOV.

21. **Ownership of Documents and Work Papers** The GOV shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the Project which is the subject of this Agreement, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to the GOV upon termination or completion of the Agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. The Contractor shall be entitled to use such work papers only after receiving written permission from the GOV and subject to any copyright protections.

22. **Indemnification** To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the GOV, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever, including, without limitation, court costs, investigative fees and expenses, and attorneys' fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or Subcontractors in the performance of or failure to perform this Agreement.

23. **Third Party Action Notification** The Contractor shall give the GOV prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any entity that may result in litigation related in any way to this Agreement.

24. **Notices** All notices required or permitted to be given under this Agreement must be in writing and personally delivered or sent by certified United States mail postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

For the Contractor:

For the GOV:

25. **Approval** It is understood that, pursuant to Section 3,.101.02 of Personal Services Contract Review Board Rules and Regulations, this Contract for the performance of professional pension fund actuarial services by licensed/certified actuaries is exempt from approval by the Personal Services Contract Review Board.
26. **Priority** This Contract consists of this Agreement, Exhibit "A" and Exhibit "B" and Exhibit "C". Any ambiguities, conflicts, or questions of interpretation of this Contract shall be resolved by first reference to this Agreement and, if still unresolved, by reference to Exhibit "A", and, if still unresolved, by reference to Exhibit "B", and if still unresolved, by reference to Exhibit "C".
27. **Change in Scope of Work** The GOV may order changes in the work, consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by the Contractor that the scope of the project or of the Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the GOV and the Contractor.
28. **Contractor Personnel** The GOV shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or Subcontractors assigned to the work by the Contractor. If the GOV reasonably rejects staff or Subcontractors, the Contractor must provide replacement staff or Subcontractors satisfactory to the GOV in a timely manner and at no additional cost to the GOV. The day-to-day supervision and control of the Contractor's employees and Subcontractors is the sole responsibility of the Contractor.
29. **Recovery of Money** Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to the GOV, the same amount may be deducted from any sum due to the Contractor under the contract or under any other contract between the Contractor and the GOV. The rights of the GOV are in addition and without prejudice to any other right the GOV may have to claim the amount of any loss or damage suffered by the GOV on account of the acts or omissions of the Contractor.
30. **Renewal of Contract** Should additional time be required to complete the specified services, then upon written agreement of both parties at least 30 days prior to each contract anniversary date, the contract may be renewed by the GOV for a period of thirty-one (31) days under the same prices, terms and conditions as in the original contract; however, in no event shall the compensation paid under this contract, for the original term plus any renewal provided herein, exceed
-

31. **Failure to Enforce** Failure by the GOV at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the GOV to enforce any provision at any time in accordance with its terms.
32. **Insurance Requirements** The Contractor shall be required to procure and maintain errors and omissions/professional liability coverage in the amount of \$1,000,000 per occurrence for the duration of the contract and offer proof of such coverage simultaneously with delivery of the executed Contract. Contractor will also be required to show proof of liability for injury to include workers compensation and automobile coverage. GOV reserves the right to request from carriers certificates of insurance regarding the required coverage.
33. **ARRA Award Terms** This contract award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public. Additional Recovery Act terms and conditions are outlined in ARRA Award Terms, Pages 1 through 11 (hereinafter referred to and attached as Exhibit "C").

Witness our signatures, on the date first written.

CONTRACTOR:

GOV:

By:_____

By:_____

APPENDIX C

Exhibit __

Reporting and Registration Requirements Under Section 1512 of the American Recovery and Reinvestment Act of 2009.

The recipient¹ agrees to the following reporting and registration requirements of Section 1512 of the American Recovery and Reinvestment Act and in accordance with 2 CFR § 176.50, if applicable:

- (a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- (b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.
- (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- (d) The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.
- (e) The contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to title XV, Section 1512 of the ARRA, the State shall require that the contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retains by this contract from the contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

¹ As used here and hereafter, recipient means "any entity other than an individual that receives Recovery Act funds in the form of a grant, cooperative agreement or loan directly from the Federal Government." 2 CFR § 176.30.

Required Use of American Iron, Steel, and Manufactured Goods Not Covered Under International Agreements Under Section 1605 of the American Recovery and Reinvestment Act of 2009.

The recipient agrees to the following required use of American Iron, Steel, and Manufactured Goods of Section 1605 of the of the American Recovery and Reinvestment Act and in accordance with 2 CFR §176.140 when awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work that does not involve iron, steel, and/or manufactured goods covered under international agreements, if applicable:

(a) *Definitions.* As used in this award term and condition—

(1) *Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

- (i) Processed into a specific form and shape; or
- (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) *Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) *Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows:

[Award official to list applicable excepted materials; or indicate "none"]

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that—

- (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;
- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the

recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron,

steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good
Domestic steel, iron, or manufactured good
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good
Domestic steel, iron, or manufactured good
<i>(List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.)</i> <i>(Include other applicable supporting information.)</i> <i>(Include all delivery costs to the construction site.)</i>			

Required Use of American Iron, Steel, and Manufactured Goods Covered Under International Agreements Under Section 1605 of the American Recovery and Reinvestment Act of 2009.

The recipient agrees to the following required use of American Iron, Steel, and Manufactured Goods (covered under International Agreements) of Section 1605 of the of the Recovery and Reinvestment Act and in accordance with 2 CFR §176.160 when awarding Recovery Act funds for construction, alteration, maintenance, or repair of a public building or public work that involves iron, steel, and/or manufactured goods materials covered under international agreements, if applicable:

(a) *Definitions.* As used in this award term and condition—

Designated country—

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods—

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good—

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured

goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel, and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been—

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

(1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or

manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

[Award official to list applicable excepted materials or indicate "none"]

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

- (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
- (B) Unit of measure;
- (C) Quantity;
- (D) Cost;
- (E) Time of delivery or availability;

- (F) Location of the project;
- (G) Name and address of the proposed supplier; and
- (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]
[Include other applicable supporting information.]
*[*Include all delivery costs to the construction site.]*

Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act.

The recipient agrees to the following wage rate requirements of Section 1606 of the of the Recovery and Reinvestment Act and in accordance with 2 CFR §176.190 when issuing announcements or requesting applications for Recovery Act programs or activities that may involve construction, alteration, maintenance, or repair, if applicable:

When issuing announcements or requesting applications for Recovery Act programs or activities that may involve construction, alteration, maintenance, or repair the agency shall use the award term described in the following paragraphs:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

Recipient Responsibilities regarding tracking and documenting Expenditures under the American Recovery and Reinvestment Act of 2009.

The recipient agrees to the following tracking and documenting responsibilities required by Section 1606 of the Recovery and Reinvestment Act and in accordance with 2 CFR §176-210, if applicable:

- (a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111– 5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements” and OMB Circular A–102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- (b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF–SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF–SAC.
- (c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.
- (d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

Requirement to Comply with Provision of Section 902 of the American Recovery and Reinvestment Act of 2009

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Required Whistleblower Protection Under Section 1553 of the American Recovery and Reinvestment Act of 2009.

[Section 1153 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5](#), provides protections for certain individuals who make specified disclosures relating to recovery Act funds. Any non-federal employer receiving recovery funds is required to post a notice of the rights and remedies provided under this section of the Act.

Required Provision Noting Authority of Inspector General in of Section 1515(a) of the American Recovery and Reinvestment Act of 2009

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Required Provision to Comply with NEPA and NHPA *Construction, Renovation, and Remodeling Projects Only*

ARRA funded projects may be required to comply with the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), and related statutes, including requirements for plans and projects to be reviewed and documented in accordance with those processes. If the ARRA program from which funds are to be expended requires such language, then NEPA and NHPA requirements may need to be included in contracts or sub-grants. Such language would be dependent on federal oversight agency guidance as well as from the following: http://nepa.gov/nepa/reqs/CEQ_1609_NEPA_Guidance_03-12.pdf (NEPA only)

Requirement to Acknowledge Availability and Use of Funds

Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Requirement Regarding Federal, State and Local Tax Obligations

By submission of a proposal, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Requirement to Comply with Anti-Discrimination and Equal Opportunity Statutes

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, ARRA Recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.

Requirement to Comply With All Other ARRA Requirements

The contractor will comply with any other requirements of ARRA, upon notification by this entity.

Requirement to Comply with E-Verification Provision of Section 71-11-3 of the Mississippi Code of 1972, as amended

The respondent represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act (§71-11-3 of the Mississippi Code of 1972, as amended) and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance and, upon request of the State, to provide a copy of each such verification to the State. Contractor further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor understands and agrees that any breach of these warranties may subject contractor to the following:

- (a) termination of this Agreement and ineligibility for any State or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (b) the loss of any license, permit, certification, or other document granted to contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year or both.
- (c) In the event of such termination/cancellation, contractor would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit.